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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/760,154

01/20/2004

James Scott McClure

8970

7590

06/17/2005

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EXAMINER

PHAM, LAM P

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/760,154

Applicant(s)

MCCLURE ET AL.

Examiner

Lam P. Pham

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Page 2, lines 1 and 16: "resturant" should change to "restaurant".

Page 3, line 1: "resturant" should change to "restaurant".

Page 5, FIG3 (III): "movement" should change to "movement".

The font should be consistent through out the specification.

Appropriate correction is required.

Claim (line 1) objected to because of the following informalities: "restaurant" should change to "restaurant" and "circuit" on line 7 should change to "circuit".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim limitation "illumination on/off switch activated when the unit is expanded beyond 35 degrees and deactivated when the unit is folded to 35 degrees or less". The

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background and summary of invention mention this limitation, however, there is no description how the on/off switch is activated when the unit is expanded beyond 35 degrees and deactivated when unit is folded to 35 degrees or less. The abstract mentioned the unit is activated/deactivated by the touch of a button and there is no mention about the angle that trigger the illumination. The below rejection will be based on this touch button.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The structure (the plastic base comprises two portions connected by a hinge) , which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device; how are the plastic base and base unit related? where is the top of the base unit? The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

**In view of 112 rejections above the following 103 rejection is made:**

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Goor et al. (US 5355115).

Regarding claim 1, Goor disclose a device (10) used for alerting the attention of a restaurant server to a table of customers in need of assistance comprising:

- a transparent plastic base (20) having two portions (front 14, back 16);
- a plastic hinge (28) connecting the two portions for folding and expanding capabilities;
- internal series of flashing bulbs (22, 24) on single circuit (38, 40, 42) powered by a 3-volt flat battery (34) housed within said plastic base;
- a battery compartment on inside of base panel for containing the battery;
- plastic battery cover flush with base;
- illumination on/off switch (36) connected to battery activated by the touch of a button;
- foldable base for storing and stacking capabilities as seen in Figures 1-2; col. 2, lines 28-68; col. 3, lines 1-27.

However, Goor fail to disclose specifically the plastic base is a hard color tinted base. It would have been obvious to one of ordinary skilled in the art to realize that a hard color tinted base is a matter of design choice. Since billfold often having a black or brown color with plastic vinyl cover, thus, one of ordinary skilled in the art consider the vinyl cover as tinted plastic cover.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dempsey et al. (US 6796673) disclose an illuminated restaurant billfold.

Thompson et al. (US 6409357) disclose an illuminated billfold.

Korzen (US 5699039) discloses an electronic table pager and display device.

Dotson (US 4250491) disclose a waiter signal device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lam P. Pham whose telephone number is 571-272-2977. The examiner can normally be reached on 9AM-6PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery A. Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Lam Pham  
June 9, 2005.

  
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